

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY**

WRIT PETITION No.23291 of 2006

Between:

Kaisula Dharmaiah

... Petitioner

AND

The Metpally Municipality,
Metpally, Karimnagar District
rep. by its Commissioner and another.

... Respondents

ORDER

Counsel for the petitioner : Shri T.V.Ramana Rao

Counsel for respondent No.1 : Shri P.Radhakrishna

10-11-2006

Per Shri G.S.Singhvi, CJ

In this petition, the petitioner has prayed for issue of a mandamus to respondent No.1 to remove illegal and unauthorised construction allegedly made by respondent No.2 in property bearing H.No.2-2-201, Ward No.3, Barkatpura, Metpally, Karimnagar district.

The petitioner claims to be the owner in possession of house bearing No.2-2-135, Barkatpura, Metpally, Karimnagar District. The house of respondent No.2 – Shri Mangilipally Shekar bearing No.2-2-201 is said to be adjacent to his house. It is borne out from the record that on a complaint made by the petitioner that respondent No.2 is raising construction in violation of the sanctioned plan resulting in violation of his privacy, the concerned authority of Metpally Municipality (respondent No.1) issued notice dated 10-4-2006 to respondent No.2 under Section 228 (1) and (2) of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act'). This was followed by notice under Section 228 (3) of the Act.

The grievance of the petitioner is that after issuing notice for demolition of illegal construction, respondent No.1 has not taken any action in the matter despite representation dated 12-10-2006 made by him.

Shri P.Radhakrishna, learned counsel appearing for respondent No.1 says that appropriate action on the representation made by the petitioner will be taken within a period of two weeks.

In view of the statement made by Shri Radhakrishna, we do not consider it necessary to pass order in terms of the prayer made in the writ petition and dispose of the same with liberty to the petitioner to seek revival of the case by filing miscellaneous petition if the concerned authority of Metpally Municipality fails to take action within two weeks.

While disposing of the writ petition in the manner indicated above, we make it clear that no order for demolition of the property or construction made by respondent No.2 shall be passed without giving

him opportunity of hearing.

As a sequel to disposal of the writ petition, W.P.M.P.No.29664 of 2006 filed by the petitioner for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

10-11-2006

bsc

Note:

The Court Officer is directed to give attested copy of this order to Shri P.Radhakrishna, learned counsel for respondent No.1.

(By Order)

svs

PS to HCJ